

## **REMARKS**

The Office Action rejected claims 1-28 and 34-38 under 35 U.S.C. § 102(e) as allegedly being anticipated by Newman et al. (U.S. Patent No. 7,278,169). The Office Action rejected claims 29-33 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Newman in view of Hunt et al. (U.S. Publication No. 2005/0123135 A1).

With entry of this Amendment and Response, claims 1, 7-9, 15-19, 21, 23-25, 27, 28, and 34-38 are amended. Claims 6, 10-14, 20, 22, 26, and 29-33 are cancelled. Claims 39 and 40 are new. Support for the amendments can be found throughout the specification, for example, in paragraphs [0025], [0026], [0027], [0031], [0032], [0041], [0049], and [0051] and in Figures 2, 5, and 11. Applicant submits that these amendments do not introduce any new matter. After entry of this Amendment and Response, claims 1-5, 7-9, 15-19, 21, 23-25, 27, 28, and 34-40 will be pending and under consideration.

### **Claim Rejections under 35 U.S.C. § 102(e)**

The Office Action rejected claims 1-28 and 34-38 under 35 U.S.C. § 102(e) as allegedly being anticipated by Newman. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP §2131. Applicant respectfully submits that this rejection is rendered moot in light of the above amendments at least because Newman fails to set forth, either expressly or inherently, each and every limitation of amended claim 1, namely:

1. receiving an updated instruction sequence, wherein the updated instruction sequence includes instructions executable to store at least one of the decrypted information or a presentable representation of the decrypted information in a computer readable storage medium,
2. modifying at least a portion of the first instruction sequence based on the updated instruction sequence, and
3. executing the modified first instruction sequence to generate a presentation signal based on the decrypted information, store at least one of the decrypted information

or a presentable representation of the decrypted information in a computer readable storage medium, or both.

Amended independent claims 15, 24, and 34 contain similar claim limitations.

Newman discloses a method and apparatus for providing encrypted digital data to a user upon completion of a financial transaction, and enabling the user to decrypt the digital data (e.g., a music track or album) on his personal computer. *See Newman, Abstract.* Once the digital data is decrypted on the user's computer, the user can then opt to either play the content back or create a copy of the digital data (e.g., make an audio CD). *See Newman, col. 2, ll. 12-15.* In order to accomplish either playback or copying, Newman's method specifically requires the receipt of one or more encryption keys generated at the server level which allow the user to decrypt the digital data. *See Newman, col. 7, ll. 37-39.* Further, Newman's method recites the generation and storage of numerous different encryption keys on the user's computer, depending on (i) which function (playback or copying) the user wishes to conduct and (ii) what file type (music track or entire album) the user wishes to process. For example, Newman states, “[i]n the preferred scheme, for additional security, each music track has an individual and distinct key.” Newman, col. 7, ll. 42-44 (emphasis added). Later, Newman discloses, “[w]here permission has been bought to burn a track, the album 30 is arranged to generate a request for a further key” which is not the same as the music track key mentioned above. Newman, col. 8, ll. 65-67 (emphasis added). In addition, the copy of the digital data created in Newman (e.g., audio CD) is then itself copy-protected to prevent unauthorized duplication. *See Newman, col. 10, ll. 4-9.*

In contrast, Applicant's amended independent claim 1 does not require the receipt of an encryption key to allow a user to decrypt data and does not require that the user either play the content back or create a copy of the digital data. Instead, amended claim 1 involves receiving an updated instruction sequence at the presentation device, as recited in point 1 above, and using the updated sequence to modify an instruction sequence that already resides at the presentation device, as recited in point 2 above. Once the instruction sequence has been modified, the instruction sequence can then be executed to store at least one of the decrypted information or a presentable representation of the

decrypted information in a computer readable storage medium in addition to generating a presentation signal for display on the presentation device, as recited in point 3 above. In essence, execution of the modified instruction sequence, according to Applicant's amended claim 1, results in display of the content on the presentation device while simultaneously copying the content to a machine-readable storage medium. In this respect, Applicant's amended claim 1 is not anticipated by Newman because Newman does not recite receiving an updated instruction sequence which then serves to modify an existing instruction sequence. Newman only discloses receipt of various encryption keys to decrypt the downloaded music content, and does not disclose receipt of any instruction sequences that alter the function of any pre-existing instruction sequences. Also, Newman does not recite the simultaneous presentation of content on the presentation device and copying of the content to a storage medium as claimed in Applicant's amended claim 1. Instead, Newman discloses merely the availability of a user-selected option to either play the content back or create a copy of the content.

Thus, Applicant respectfully submits that Newman fails to anticipate Applicant's amended claims 1, 15, 24, and 34. In addition, Applicant submits that claims 2-5, 7-9, 16-19, 21, 23, 25, 27, 28, and 35-40 depend from Applicant's amended claims 1, 15, 24, and 34 and thus are not anticipated for at least the same reasons amended claims 1, 15, 24 and 34. Therefore, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 102(e) rejection.

**Claim Rejections under 35 U.S.C. § 103(a)**

The Office Action rejected claims 29-33 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Newman et al. in view of Hunt et al. (U.S. Publication No. 2005/0123135). The rejected claims have been canceled with the entry of this Amendment, thereby rendering the rejection under the 35 U.S.C. § 103(a) moot. Applicant therefore respectfully requests withdrawal of this rejection.

**CONCLUSION**

Applicant's discussion of particular positions of the Office Action does not constitute a concession with respect to any positions that are not expressly contested by the Applicant. Applicant's emphasis of particular reasons why the claims are patentable does not imply that there are not other sufficient reasons why the claims are patentable, nor does Applicant concede that the claims were not patentable in their unamended form.

In view of the foregoing remarks and the inability of the prior art to anticipate the invention disclosed and claimed in this application, all the claims are submitted in a condition for allowance, and notice thereof is respectfully requested. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

Date: May 8, 2009

Reg. No.: 56,471

Tel. No.: (617) 526-9717

Fax No.: (617) 526-9899

/Scott K. Witonsky #56,471/

Scott K. Witonsky

Proskauer Rose LLP

Attorney for the Applicant

One International Place

Boston, MA 02110